



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No. 6867-17
MAR 12 2018

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552. Your case was reconsidered in accordance with procedures that conform to *Lipsman v. Secretary of the Army*, 335 F. Supp. 2d 48 (D.D.C. 2004). You were previously denied relief by the Board on 6 January 2016.

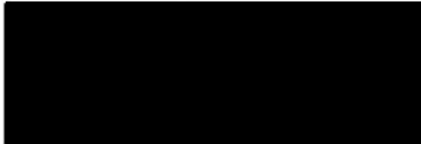
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 February 2018. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations and policies. However, after careful and conscientious consideration of the entire record, the Board determined that while your request does contain new information not previously considered by the Board, it does not warrant relief. Accordingly, your request has been denied.

The Board carefully considered your arguments that you deserve a disability discharge and an Honorable characterization of service. You assert that you were misdiagnosed by a medical board and erroneously discharged. Unfortunately, the Board disagreed with your rationale for relief. The Board determined that it lacked the evidence to find that you were misdiagnosed in 1986. While the Board considered your 13 January 2017 letter from your current provider, it did not find his opinion persuasive on the issue of your discharge. Despite the fact your left knee may have not been diagnosed correctly as patellofemoral syndrome, the Board determined that you still did not meet enlistment physical standards because of your right knee condition. The Board noted that you suffered serious right knee injuries in 1980 and 1986 before enlisting in the Navy and reporting pain in both knees after only 22 days of active duty. In the Board's opinion, it was reasonable to conclude that your condition existed prior to your entry into active duty based on the brief period of active duty without any evidence of a traumatic event to cause your knee injuries. The fact your provider believes in 2017 that the Navy's diagnosis was incorrect as to one knee was not probative on the issue of whether you met enlistment standards in 1986 since it is not in dispute that you possessed an injury to your right knee. Accordingly, the Board determined no error or injustice exists in your case.

It is regretted that the circumstances of your reconsideration petition are such that favorable action cannot be taken again. You are entitled to have the Board reconsider its decision upon the submission of new and material evidence. New evidence is evidence not previously considered by the Board. In the absence of sufficient new and material evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

It is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

A solid black rectangular box used to redact the signature of the Executive Director.

Executive Director